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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/811,700	03/29/2004	Joerg Weshendorff	81093425	1369

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FORD GLOBAL TECHNOLOGIES, LLC  
FAIRLANE PLAZA SOUTH, SUITE 800  
330 TOWN CENTER DRIVE  
DEARBORN, MI 48126

EXAMINER
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SLITERIS, JOSELYNN Y

ART UNIT	PAPER NUMBER
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3616

MAIL DATE	DELIVERY MODE
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03/14/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/811,700	<b>Applicant(s)</b> WESHENDORFF, JOERG	
	<b>Examiner</b> JOSELYNN Y. SLITERIS	<b>Art Unit</b> 3616	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 12 December 2007.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,3 and 5-13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 12 and 13 is/are allowed.
- 6) ☒ Claim(s) 1,3,5-11 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 3/29/04 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Claim Objections***

1. Claims 1, 3, and 5-11 are objected to because of the following informality: in claim 1 line 7, "spring plate" should be --plate--. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1, 3, and 5-11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

4. In claim 1 line 6, "annually surrounding" is unclear. Therefore, claim 1 is rendered indefinite.

5. Claim 1 is indefinite because an intermediate step (i.e. "wherein the mounting supports the spring plate when the suspension is not fitted to the body of the motor vehicle" in lines 10-11) is being claimed in an apparatus claim, and as such, the scope of claim 1 is unclear and unascertainable. Therefore, claim 1 is indefinite.

### ***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1 and 8, as best understood, are rejected under 35 U.S.C. 102(b) as being anticipated by Nagai et al. (JP 2000255236A), previously cited by applicant.

8. Regarding claims 1 and 8, as best understood, Nagai (see annotation on Fig. 1) discloses a wheel suspension system as in the present invention, comprising:

a lower link 25;

a spring 7 having a lower end and an upper end, the lower end of which is arranged on the link and the upper end of which is arranged in a spring plate 6; and

a chassis underframe 5 having a mounting annularly surrounding the spring spring plate for support, and the chassis underframe having at least one pair of bearings for fastening to the body;

wherein the lower link is designed as a transverse link.

Examiner notes that the recitation "wherein the mounting supports the spring plate when the suspension is not fitted to the body of the motor vehicle" in claim 1 lines 10-11 is functional language describing intended use and is further an intermediate method step in an apparatus claim, and as such does not serve to distinguish.

Therefore, this limitation has not been given patentable weight.

### ***Claim Rejections - 35 USC § 103***

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and

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the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Nagai et al. (JP 2000255236A), previously cited by applicant, in view of Martinez, Jr. et al. (U.S. Patent 4,771,996).

11. Regarding claim 5, Nagai discloses the claimed invention except for a spring aid. Martinez, Jr. discloses that it is known in the art to provide a spring plate 24 combined with the support of a spring aid 28. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the spring plate of Nagai with the spring aid of Martinez, Jr., in order to provide a better seat for the spring against the spring plate.

12. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Nagai et al. (JP 2000255236A), previously cited by applicant, in view of Sautter et al. (U.S. Patent 4,671,531).

13. Regarding claim 6, Nagai discloses the claimed invention except for the at least one pair of bearings of the chassis underframe being formed by elastomeric elements. Sautter discloses that it is known in the art to provide rubber bushings 9 for the chassis underframe 7'. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to replace the bearings of Nagai with the rubber bushings 9 of Sautter, in order to provide better damping of noise and vibrations.

Further, it would have been obvious to one having ordinary skill in the art at the time the invention was made to form the at least one pair of bearings of the chassis underframe of elastomeric elements, since it is well known in the art that elastomeric

elements provide for good damping of noise and vibrations and since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. In re Leshin, 125 USPQ 416.

### ***Allowable Subject Matter***

14. Claims 3, 7, 9, 10, and 11 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

15. Claims 12 and 13 are allowed.

### ***Response to Arguments***

16. Applicant's arguments filed 12/12/07 have been fully considered but they are not persuasive.

17. Applicant argues "In contrast, *Pelz* fails to disclose a chassis underframe having a mounting annularly surrounding the spring plate for supporting the spring plate when the wheel suspension system is not fitted on the body of a motor vehicle. The *Pelz* underframe (6) fails to extend or contact the spring plate located on top of spring (15) in Fig. 2".

Examiner notes that the recitation "wherein the mounting supports the spring plate when the suspension is not fitted to the body of the motor vehicle" in claim 1 lines 10-11 is functional language describing intended use and is further an intermediate

method step in an apparatus claim, and as such does not serve to distinguish.

Therefore, this limitation has not been given patentable weight.

18. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., the underframe extending or contacting the spring plate located on top of the spring; the spring plates directly engaging the body of the vehicle) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

### ***Conclusion***

19. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

20. Any inquiry concerning this communication or earlier communications from the examiner should be directed to JOSELYNN Y. SLITERIS whose telephone number is (571)272-6675. The examiner can normally be reached on Monday, Tuesday & Thursday 8:30 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul N. Dickson can be reached on 571-272-6669. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Anne Marie M Boehler/  
Primary Examiner, Art Unit 3611  
/Joselynn Y. Sliteris/  
Examiner, Art Unit 3616

JYS  
2/29/08